

ing the case for the opinion of the Supreme Court. The case is printed in the memorandum (case 81/362). There are no other papers or telegrams at that date from Mr. Fenton to Mr. Cornford, but there is a minute in the handwriting of the Clerk that a letter was sent to Mr. Cornford for a return of the case sent to him for perusal.

176. As to this matter at the top of page 18, referred to by Sir Robert Stout: "It was, in my opinion, the bounden duty of Judge Fenton, before he sent the case for the opinion of the Supreme Court, to have had the whole question of the signatures to the withdrawal and the telegram repudiating the withdrawal adjudicated upon; and I can find no excuse for his neglect of such duty." Now, had this question of the withdrawal anything to do with the point of law which you wanted determined?—No.

177. Was there any means by which you could have adjudicated upon the question of the genuineness of the signatures to the withdrawal at this time, the rehearing having been dismissed? After you had dismissed this rehearing, could you consider the letter which had been received from Heperi Pikirangi, dated the 30th November, 1880, saying that the rehearing had been withdrawn improperly? Was there any means by which you could judicially have determined the question of whether that had been properly withdrawn or not? Could you reconstitute your Court for the purpose?—I do not know of any means of doing so. Nothing was more frequent after the decision of the Court than for dissatisfied parties who had lost their case to come in multitudes and complain.

178. Was this an exceptional kind of letter to get—this letter of Heperi Pikirangi of the 3rd November? Was it common or uncommon for you to have charges of this kind made?—Yes, it was a common thing.

179. *Hon. Sir R. Stout.*] Was it a common thing to have distinct charges of falsification and promises of payment, as stated in this letter?—Yes, it was a usual thing. That was the usual style of letter.

180. *Mr. Bell.*] Then the letters of the 3rd November and 11th November were the usual style of complaints you received—that people came down to defraud them—against professional men even?—Yes; anybody.

181. And they were never inquired into?—No; they always came, and they were never inquired into.

182. *Hon. Major Atkinson.*] They were looked upon as a matter of course?—Yes. We could not inquire into them.

183. *Mr. Bell.*] You would have had nothing else to do if you had started to make inquiries?—It would be quite impossible. They indulged in expressions that we Europeans only think. When we lose a case we do not talk about it and accuse people; but they do, and they write too.

184. *Hon. Sir R. Stout.*] I would draw your attention to the telegram to Mr. Bryce from the Natives, showing that they had no knowledge that you had heard the case. That telegram states, "We request that you will remove our names from the document withdrawing the Owhaoko case from the Court. We now wish the hearing to go on. This lawyer, Dr. Buller, cajoled us to sign our names to the (draft) document you gave him. Friend the Minister, let the title to Owhaoko be reheard at Napier. We, the persons who signed Dr. Buller's document, agree to it.—HOHEPA TAMAMUTU." What is this then?—It is not that the Natives are disagreeing with the decision come to, but they object to the document that they have signed being taken as a withdrawal of the rehearing. You got that on the 11th November.

185. *Mr. Bell.*] This letter of the 3rd November was not received by you till you had come to your decision upon the question of fact?—Yes, my powers were all exercised at that time: I was *functus officio*.

186. I will not trouble you with the other matter referred to by Sir Robert Stout, but I will refer to page 19, in which telegrams between Dr. Buller and you, Mr. Studholme and Dr. Buller, and a letter from Mr. Studholme to you are set out. The first telegram from Dr. Buller to Mr. Studholme reads, "Owhaoko gazetted for hearing. Get Fenton wire Heale judgment affirmed. Knew nothing till I showed him copy of Richmond's order." That is correct in so far as it states that judgment was confirmed, is it not? By that time you had got the opinion of the Supreme Court affirming the original judgment?—That was so.

187. *Hon. Sir R. Stout.*] Would you state the date of the affirmation?—As far as I can make out from the paper, it never was confirmed in Court.

188. *Mr. Bell.*] I will put it to you in this way: By that time—long before that you had the judgment of the Supreme Court—you had the power to affirm the decision?—Yes.

189. Then go on to Mr. Studholme's letter to you: "My dear Fenton,—I have just received the enclosed telegram from Dr. Buller. Judge Heale is apparently unacquainted with the facts of the case. Will you kindly advise him? It would be very annoying if there was any further difficulty re title. I leave for Napier, per 'Te Anau,' at noon.—Yours &c., JOHN STUDHOLME"—Yes, I see that.

190. Well, you received this letter from Mr. Studholme. Can you remember what you did when you received that letter?—Only from these papers.

191. Did you know whether the *Gazette* notice for the hearing was in the name of the Owhaoko Block? The application for this hearing that you were then being referred to—did you then know the name of the block that was in the list for hearing. It is spoken of as Owhaoko: what appeared in the *Gazette* as the name of the block?—Ngaruroro.

192. I will take you to the next telegram, which you sent to Mr. Heale, "Owhaoko has been heard, and is finished. This claim should be dismissed with costs.—F. D. FENTON." Why did you say this claim should be dismissed with costs?—For this reason: The Natives had got into a way which was very inconvenient, besides being very dishonest, when a case had been decided against